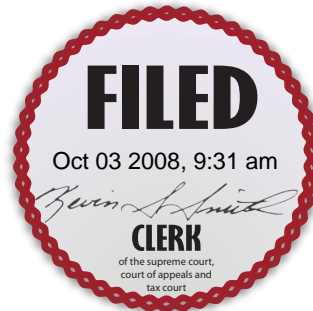


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

HARVEY WILLIAMS, JR.,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 79A02-0806-CR-473

APPEAL FROM THE TIPPECANOE SUPERIOR COURT
The Honorable Randy Williams, Judge Pro Tempore
Cause No. 79D01-0611-FD-53

October 3, 2008

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Harvey Williams, Jr. (“Williams”) was found guilty in Tippecanoe Superior Court of Class D felony possession of cocaine, Class A misdemeanor possession of marijuana, and Class A misdemeanor possession of paraphernalia. He was sentenced to a three-year term in the Department of Correction. Upon appeal, Williams claims that the trial court abused its discretion when it admitted evidence seized by police following questioning and an overly long traffic stop, both allegedly in violation of the Indiana Constitution.

We affirm.

Facts and Procedural History

On the evening of September 8, 2006, Williams and his wife were stopped for headlight and speeding violations by Lafayette Police Department Officer Steven Prothero (“Officer Prothero”), who was taking part in a drug interdiction operation. Officer Prothero determined that Williams had a valid Illinois driver’s license. Additionally, a canine unit called to the scene did not indicate the presence of narcotics. Officer Prothero issued two written warnings to Williams and permitted him to leave.

Approximately one hour later, after Williams had dropped his wife off at her home, he was pulled over again by Lafayette Police Department Officer Michael Brown (“Officer Brown”), for a headlight violation. Officer Brown was also taking part in the drug interdiction operation. Williams showed the two warning citations he had received from Officer Prothero to Officer Brown and said, “Ha. Already got it, ***** ***** . See ya.” Tr. p. 87. Williams acted as if he was going to leave, but Officer Brown stopped him and asked for his driver’s license, vehicle registration, and proof of insurance. Officer Brown noted that the car was registered in Tippecanoe County and bore an

Indiana license plate but that Williams had provided an Illinois driver's license. Officer Brown asked Williams about the discrepancy between the driver's license and license plate. Williams told Officer Brown that he had lived in Illinois in the past but had lived in Indiana for the past few years and in Lafayette for a few months.

Officer Brown returned to his vehicle and determined that Williams also had an invalid Indiana driver's license that had been suspended thirteen times. Officer Brown issued a citation under Indiana Code section 9-24-1-7(8) because Williams had clearly established residency in Indiana but had not obtained a valid Indiana driver's license within sixty days. Because of this violation, the police impounded Williams's vehicle. A subsequent inventory search of the vehicle found .99 grams of cocaine, 18 grams of marijuana, and a metal pipe containing cocaine.

On November 3, 2006, the State charged Williams with Class D felony possession of cocaine, Class A misdemeanor possession of marijuana, and Class A misdemeanor possession of paraphernalia. On May 21, 2007, Williams filed a motion to suppress the items found during the inventory search and testimony related to the traffic stop.

On February 28, 2008, a jury trial commenced. During trial, the trial court denied Williams's motion to suppress. The jury found Williams guilty on all counts. The trial court sentenced Williams on April 3, 2008. The trial court ordered Williams to serve three years with two years executed in the Tippecanoe County Community Correction program and one year on supervised probation. Williams appeals.

Discussion and Decision

Williams argues that the trial court abused its discretion by admitting evidence seized pursuant to an inventory search and testimony presented regarding the traffic stop. The trial court denied Williams's motion to suppress during trial and Williams is appealing after trial. The issue is more "appropriately framed as whether the trial court abused its discretion by admitting the evidence at trial." Lundquist v. State, 834 N.E.2d 1061, 1067 (Ind. Ct. App. 2005). The standard of review is essentially the same regarding a challenge made in a pre-trial motion to suppress or by objection at trial. Id. We consider conflicting evidence most favorable to the trial court's ruling and we do not reweigh the evidence. Id. Also, we must consider uncontested evidence favorable to the defendant. Id.

Article I, Section 11 of the Indiana Constitution provides the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search or seizure, shall not be violated[.]" When viewing challenges under this section of the Indiana Constitution, we must look to the circumstances in each case to determine "whether the police behavior was reasonable." Mitchell v. State, 745 N.E.2d 775, 786 (Ind. 2001).¹ The State has the burden of showing that the intrusion was reasonable in light of the totality of the circumstances. Id. Under Section 11, if an officer reasonably suspects that the motorist is engaged in, or about to engage in, illegal activity, then a police stop and brief detention of a motorist is reasonable and permitted. Id. Police

¹ Williams has waived his Fourth Amendment claim for failing to put forth a cogent argument on appeal. See Ind. Appellate Rule 46(A)(8).

officers may stop a vehicle when they observe minor traffic violations. Jackson v. State, 785 N.E.2d 615, 619 (Ind. Ct. App. 2003), trans. denied.

Williams contends that although the traffic stop was valid because of the headlight infraction, it was improperly extended by the officer's questions. Article I, Section 11 of the Indiana Constitution permits a police stop and brief detention of a motorist so that the officer may complete the work related to the illegality for which the motorist was stopped. State v. Quirk, 842 N.E.2d 334, 340 (Ind. 2006). A request for the driver's license and vehicle registration and a license plate check are within the scope of reasonable detention. Id.

While checking Williams's driver's license and registration, Officer Brown noticed that Williams's car was registered in Indiana but that he had an Illinois driver's license. In response to this discrepancy, Officer Brown asked Williams to explain. Williams then explained that he had previously lived in Illinois but had lived in Indiana for the past few years and in Lafayette for the past few months. With that information, Officer Brown checked if Williams had an Indiana driver's license. A driver's license search revealed that Williams no longer had a valid Indiana driver's license. Officer Brown wrote a ticket citing Williams for no valid license under Indiana code section 9-24-1-1 (2004). Officer Brown based his decision to do so on his determination that Williams had established Indiana residency and did not have a valid Indiana driver's license.

Williams appears to argue that once the officer had noted the validity of his Illinois driver's license then the officer no longer had reason to inquire about his license.

This is not true. The combination of the Indiana vehicle registration and Illinois driver's license raised questions regarding the validity of the address on the driver's license. Officer Brown's questions related to Williams's address were within the scope of reasonable detention.

Additionally, Officer Brown testified that the traffic stop occurred at approximately 10:48 p.m. The ticket for failing to have a valid license was written at 11:00 p.m. A twelve-minute stop is not an unreasonable period for a traffic stop. See Myers v. State, 812 N.E.2d 146 (Ind. Ct. App. 2004) (holding that a traffic stop lasting less than fifteen minutes was not excessive.) Accordingly, Williams was not detained for longer than necessary.

Under the facts and circumstances of the case, the officer did not violate Article 1, Section 11 of the Indiana Constitution and the trial court did not abuse its discretion in admitting the evidence obtained as a result of the stop.

Affirmed.

BAKER, C.J., and BROWN, J., concur.